

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

IN RE: C.R. BARD, INC., PELVIC) MDL NO.
REPAIR SYSTEM PRODUCTS LIABILITY) 2:10-md-2187
LITIGATION)

IN RE: AMERICAN MEDICAL SYSTEMS,) MDL NO.
INC., PELVIC REPAIR SYSTEM) 2:12-md-2325
PRODUCTS LIABILITY LITIGATION)

IN RE: BOSTON SCIENTIFIC) MDL NO.
CORPORATION, PELVIC REPAIR SYSTEM) 2:12-md-2326
PRODUCTS LIABILITY LITIGATION)

IN RE: ETHICON, INC., PELVIC) MDL NO.
REPAIR SYSTEM PRODUCTS LIABILITY) 2:12-md-2327
LITIGATION)

IN RE: COLOPLAST CORP., PELVIC) MDL NO.
REPAIR SYSTEM PRODUCTS LIABILITY) 2:12-md-2387
LITIGATION)

IN RE: COOK MEDICAL, INC., PELVIC) MDL NO.
REPAIR SYSTEM PRODUCTS LIABILITY) 2:13-md-2440
LITIGATION)

TRANSCRIPT OF STATUS CONFERENCE
BEFORE THE **HONORABLE JOSEPH R. GOODWIN**,
UNITED STATES DISTRICT JUDGE,
AND **CHERYL A. EIFERT**,
UNITED STATES MAGISTRATE JUDGE
WEDNESDAY, SEPTEMBER 14, 2016; 10:00 A.M.
CHARLESTON, WV

Proceedings recorded by mechanical stenography,
transcript produced by computer.

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1 P-R-O-C-E-E-D-I-N-G-S

2 JUDGE GOODWIN: Good morning.

3 RESPONSE: Morning.

4 JUDGE GOODWIN: Welcome back to Charleston. It's
5 nice to see all of you today.

6 This is the most bright-eyed, bushy-tailed group I have
7 ever seen on a morning after a night before in Charleston.
8 You all must have been working last night.

9 I don't know how much anybody's going to be wanting to
10 talk, but if you do, be sure to speak into the microphone so
11 my court reporter can pick it up.

12 I have bad news. I'm losing my court reporter. She's
13 moving back to Dayton, Ohio. She's probably one of the best
14 court reporter's in the country, and she's going to be hard
15 to replace, so if you know of any court reporters that want
16 to move to beautiful downtown Charleston, have them apply
17 soon.

18 We have a brief agenda today.

19 Let me first say I'm very satisfied with the hard work
20 and progress that's been made. I've said that before, but
21 lots of times I didn't mean it. This time I actually mean
22 it. We've been tasked with the difficult and sometimes
23 overwhelming task of fairly and judiciously addressing
24 around 100,000 cases. We're down to 70,000 pending on the
25 document, and actually, I know, as you do, that we are down

1 much further than that. We just don't have them off the
2 docket yet. I'll talk about that in a minute.

3 I want to stress to all the parties in the meetings --
4 or all the parties here today, as I have in the meetings
5 I've conducted this morning and yesterday the importance of
6 submitting the inactive docket orders in accurate form. I
7 use AMS as an example because they have otherwise been
8 exemplary. They have actually sent me motions to put a case
9 on the inactive docket order where the case had been
10 dismissed with prejudice already, which means that a
11 paralegal wasn't careful enough. And they will pay when
12 Dorian gets back, I'm certain.

13 Right now, we've been doing those motions by simply
14 filing a motion and listing the cases and the names and a
15 number. Within two weeks we are going to start doing them
16 case by case, individually, so if you want to get in on the
17 easy way, make sure it's accurate and get it in in the next
18 couple weeks. After that, we're going to do them
19 individually because that way they go in the right file,
20 they are there, I know where they are when the dismissal
21 order comes in, and they are easier for us to check.

22 Now, you have access to CM/ECF, so you can check
23 everything that I can check.

24 The truth of the matter is our paralegal, MaryAnne,
25 didn't tell me until very recently all of the troubles that

1 she was having with this, or I would have done something
2 about it sooner. But now that you know about it, go back
3 and tell the people that are in charge of doing that.

4 I know you've got a whole bunch coming in, Mr. Clark.
5 Whoever's handling that for you, tell them to be very
6 careful.

7 MR. CLARK: I'll introduce myself to them, Your
8 Honor.

9 JUDGE GOODWIN: All right. Now, this goes without
10 saying. I expect -- and it really doesn't apply to anyone
11 here, but this is the only people I've got to talk to, so
12 you can spread the word, and we do have a record. I expect
13 people to comply with the Court orders in a timely fashion,
14 and I will -- Kate wrote in the script, said I "may" impose
15 sanctions. I've changed that to "will" impose sanctions to
16 people who don't follow the Court orders, and those are the
17 ones that have recently required the production of medical
18 information in certain of the MDLs with more to follow.

19 When the parties sit down to negotiate, at this point
20 it's simply unacceptable for a plaintiff, or a plaintiff's
21 lawyer, rather, not to have and for the defendant not to
22 have the supporting medical information necessary to settle
23 the case. We are just too far down the road for that to
24 occur anymore.

25 I don't -- I don't mean this in any negative way, but

1 there will be no further delays in the entry of scheduling
2 orders for cases, for waves, tsunamis, whatever they might
3 be. As you all know, these MDLs cannot and should not go on
4 indefinitely. I have a good feel for all of them now, and I
5 have a good feeling about all of them now, but I don't want
6 you to lie down. If the parties choose not to work
7 expeditiously towards reasonable resolution, there will be
8 very many opportunities to litigate very soon.

9 I want to thank Judge Eifert for joining us this
10 morning. I asked her before we came if she had anything to
11 say, and she said she didn't think so, but I'll ask her
12 again.

13 JUDGE EIFERT: No, I don't.

14 JUDGE GOODWIN: She has always, as you know, been
15 available to you; and unlike I, who I'm often in error but
16 never in doubt, she is never in doubt but she's always
17 right. So if you need to call her on a discovery dispute,
18 think twice.

19 As I tell every year's law clerks and every new group
20 of lawyers that come in, just follow the rules. It's not
21 really that hard.

22 The time for thoughtful reflection has passed. The
23 time for action is right now. Everyone in these cases
24 should be fully advised as to all of the important aspects
25 of this litigation. Let's put it in a box and wrap it up.

1 I want to thank Judge Eifert for joining us.

2 Are there any lawyers here who would like to say
3 anything?

4 Yes, sir, Mr. Gerrard for the plaintiffs.

5 MR. GERRARD: From the plaintiffs' side, Your
6 Honor, but I will say that on behalf of all the plaintiffs,
7 we appreciate the diligence and the work of the Court.

8 JUDGE GOODWIN: Well, it doesn't come naturally to
9 me, but I appreciate it. I appreciate the compliment.

10 MR. GERRARD: With an admonition of the bailiff to
11 be silent or go to jail, I won't comment further, Your
12 Honor.

13 JUDGE GOODWIN: All right. Well, thanks, all of
14 you, for coming. As I mentioned yesterday, and as I have
15 nearly every time, the Charleston Convention and Visitors
16 Bureau also thanks you for your contributions to the
17 economy.

18 Mr. Clark gets the Golden Award, as he usually does on
19 most of these trips. He, according to rumor, spends more
20 money in town than any other lawyer. That's just what I've
21 heard.

22 It's been fun. It's been fun getting to know all of
23 you. It's been fun dealing with a group of real
24 professionals who know what they are doing. This massive
25 mess could not have moved to the point that it has without

1 knowledgeable and diligent counsel. You all have stepped up
2 and have done it.

3 Now, I know there are a lot of cases still on the
4 docket. I looked at Johnson & Johnson; they've still got a
5 lot of cases. But I know -- it's a secret -- but I know
6 that they are making great progress. Okay?

7 One of the things I found most amusing about this
8 entire process is how unsecret the secrets are. It doesn't
9 take 48 hours for most stuff to leak out and somebody say,
10 "Did you hear?"

11 And Kate, all of you must trust her, because she hears
12 everything. I don't. She even reads the blogs -- don't
13 tell anybody.

14 I've read a couple back in the day that I had the lady
15 that did one of the blogs in court at a trial. That's a
16 brand new problem for trial lawyers and judges, that
17 misinformation and sometimes accurate information but the
18 instantaneous interpretation of what went on in court, which
19 we can't respond to. Very, very different problem.

20 I'm not going to keep going on. Have a safe travel
21 home, and I look forward to seeing all of you at least once
22 again. We'll have it -- when this is over, we're going to
23 have a big party. Mr. Mostyn, who had to leave to go to
24 Scotland, who says on business but he's taking his family
25 with him, doesn't know it yet, but I think he's willing to

1 pay for that final party.

2 (Proceedings concluded at 10:20 a.m.)

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1 CERTIFICATE OF REPORTER

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3 I, Mary A. Schweinhagen, Federal Official Realtime
4 Court Reporter, in and for the United States District Court
5 for the Southern District of West Virginia, do hereby
6 certify that pursuant to Section 753, Title 28, United
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12
13 s/Mary A. Schweinhagen

14 _____ September 21, 2016

15 MARY A. SCHWEINHAGEN, RDR, CRR
16 FEDERAL OFFICIAL COURT REPORTER
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